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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**DECLARATION OF GREGORY M.
SERGI IN SUPPORT OF
DEFENDANTS' JOINT
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

1 I, Gregory M. Sergi, hereby declare and say:

2 1. I am an attorney with Munger, Tolles & Olson LLP, counsel of record for Intel
 3 Corporation (“Intel”) in this case, and am admitted to practice before this Court. I make this
 4 declaration in support of Defendants’ Joint Administrative Motion to File Under Seal that is being
 5 filed concurrently with this Declaration. On behalf of Intel, I make this declaration pursuant to
 6 Local Rules 79-5(d) and 7-11(a) to demonstrate compelling reasons for the portions of the
 7 documents described below to be filed under seal. If called and sworn as a witness, I could and
 8 would competently testify to the matters stated below.

9 2. I have reviewed the following documents, and made specific, narrowly tailored
 10 redactions where necessary to protect highly confidential and highly sensitive Intel information
 11 regarding its compensation, hiring, and recruiting practices: Defendants’ Motion to Exclude the
 12 Expert Testimony of Edward E. Leamer, Ph.D. and accompanying exhibits; Defendants’ Motion
 13 to Strike Improper Rebuttal Testimony in Dr. Leamer’s Reply Expert Report or For Leave to
 14 Submit a Reply Report of Dr. Stiroh and accompany exhibits; and Defendant Google Inc.’s Notice
 15 of Motion and Motion for Summary Judgment and accompanying exhibits. The redactions – as
 16 detailed below – apply to only certain exhibits accompanying these documents.

17 *The Reasons for Sealing the Redacted Information*

18 3. The grounds for Intel’s redactions identified below are set forth in the Declaration
 19 of Tina M. Evangelista in Support of Plaintiffs’ Administrative Motion to File Under Seal
 20 Plaintiffs Notice of Motion and Motion for Class Certification, and Memorandum of Law in
 21 Support, Docket Item 203 (Oct. 8, 2012) (“Evangelista Decl.”). The types of confidential Intel
 22 information reflected in the documents at issue here are the same (or substantially similar) to the
 23 types of confidential Intel information described in the Evangelista Declaration. As explained in
 24 the Evangelista Declaration, the information at issue here reflects confidential business
 25 information that gives Intel a competitive advantage in recruiting, retaining, and compensating
 26 employees. Evangelista Decl. ¶ 4. Intel derives independent economic value from the strategic
 27 information and raw data contained in these documents not being generally known to the public or
 28 to other persons who can obtain economic value from its disclosure or use. *Id.* ¶ 5. It is Intel’s

1 practice to treat these documents and data as confidential, and not to disclose them outside the
 2 company. *Id.* ¶ 6. The information reflected in the documents at issue here quotes from,
 3 describes, or reflects analysis of Intel's documents and data that have been designated
 4 "CONFIDENTIAL – ATTORNEYS' EYES ONLY" ("AEO") pursuant to the Protective Order in
 5 this Action.

6 *The Intel Confidential Information that Should be Sealed*

7 4. Specifically, Intel seeks to seal the following highly confidential, commercially
 8 sensitive information:

9 **Reply Expert Report of Edward E. Leamer, Ph.D. (December 11, 2013):**

- 10 • Table 1 contains information describing confidential Intel employment and
 11 compensation data.
- 12 • Paragraph 31 contains information describing confidential Intel
 13 employment and compensation data, in particular it reflects actual
 14 compensations ranges for a specific Intel job title
 15 (COMPONENT_DESIGN_ENGR_7).
- 16 • Table 3 contains information describing confidential Intel employment data.
- 17 • Table 4 contains information reflecting Intel's confidential compensation
 18 practices, in particular the information relates to Intel's methods for setting
 19 appropriate compensation levels.
- 20 • Figure 14 contains information describing confidential Intel compensation
 21 data, in particular it reflects Intel's average total compensation from 2001 to
 22 2011.
- 23 • Appendix A, Paragraph 2 contains information describing confidential Intel
 24 employment and compensation data, in particular it reflects actual
 25 compensations ranges for a specific Intel job title (CAD_ENGINEER_7).

26 **Expert Report of Edward E. Leamer, Ph.D. (Oct. 28, 2013):**

- 27 • Figure 2 contains information describing confidential Intel employment and
 28 compensation data.

1 • Figure 4 and the related text in Paragraphs 36, 42, and 43 contain
2 information describing confidential Intel compensation data, in particular it
3 reflects the average total compensation for Intel employees in and outside of
4 California.

5 **Rebuttal Supplemental Expert Report of Edward E. Leamer, Ph.D. (July 12, 2013):**

6 The grounds for redactions relating to Intel confidential information are stated in the Declaration
7 of Frank Busch in support of Defendants' Joint Response to Plaintiffs' Administrative Motion to
8 File Under Seal, Docket Item 466 (July 19, 2013).

9 **Supplemental Expert Report of Edward E. Leamer, Ph.D. (May 10, 2013):** The
10 grounds for redactions relating to Intel confidential information are stated in the Declaration of
11 Krystal N. Bowen in support of Defendants' Joint Response to Plaintiffs' Administrative Motion
12 to File Under Seal Plaintiffs' Supplemental Motion in Support of Class Certification and Related
13 Documents, Docket Item 430 (May 17, 2013).

14 **Expert Report of Edward E. Leamer, Ph.D. (Oct. 1, 2012):** The grounds for redactions
15 relating to Intel confidential information are stated in the Evangelista Declaration.

16 **Expert Report of Lauren J. Stiroh, Ph.D (Nov. 25, 2013):**

17 • Paragraphs 50-58 contain information describing confidential Intel
18 compensation practices, in particular these paragraphs describe extensively
19 Intel's particular methods and practices for setting appropriate
20 compensation.

21 • Paragraph 82 contains information reflecting confidential Intel
22 compensation data.

23 • Footnote 206 in Paragraph 110 contains information describing Intel's
24 confidential practices for setting appropriate compensation.

25 • Footnote 225 in Paragraph 123 contains information reflecting confidential
26 Intel compensation data.

27 • Paragraphs 136 and 137 contain information describing Intel's confidential
28 practices for setting appropriate compensation.

- Paragraph 180 contains confidential information describing Intel's actual compensation data.
- Exhibits III.25 – III.32 contain information describing confidential Intel employment and compensation data.
- Exhibits III.54 – III.55 contain information describing confidential Intel compensation data.
- Exhibit IV.1 contains confidential information reflecting Intel's methods for identifying and recruiting potential job candidates.
- Exhibit IV.3 – III.5 contain information describing confidential Intel employment data.
- Exhibit IV.15 contains confidential information describing Intel employment and compensation data, in particular this exhibit provides a breakdown of Intel's particular compensation practices over time with respect to individual job titles.
- Exhibit IV.16 contains confidential information describing Intel's actual compensation data.
- Exhibit IV.20 contains confidential information describing Intel's actual compensation data.
- Exhibit IV.23 contains confidential information describing Intel employment data.
- Exhibit IV.28 contains confidential information describing Intel's actual compensation data.
- Exhibit IV.30 contains information reflecting Intel's confidential compensation practices, in particular the information relates to Intel's methods for setting appropriate compensation levels.
- Exhibit IV.37 contains confidential information describing Intel's actual compensation data.

- Exhibit V.5 contains confidential Intel information reflecting the actual compensation of named plaintiff Mark Fichtner.
- Appendix Exhibit III.1 contains confidential information describing Intel's actual compensation data.

Expert Report of Professor Kevin M. Murphy (Nov. 12, 2012) (Appendices 1A, 1B, and 2A): The grounds for redactions relating to Intel confidential information are stated in the Declaration of Frank Busch in support of Defendants' Joint Administrative Motion to File Under Seal, Docket Item 220 (Nov. 12, 2012).

The Particularized Harm Disclosure Would Cause

5. According to the Evangelista Declaration, which addresses the same (or substantially similar) types of information as that which is redacted in the above-referenced documents, Intel would suffer particular harm if the redacted information is disclosed to the public. Disclosure of such information would put Intel at a significant competitive disadvantage in terms of its ability to identify, recruit, and compensate employees. Evangelista Decl. ¶ 8. Disclosure of such information would deprive Intel of its investment in developing strategies for recruiting and compensation. *Id.* And disclosure of such information would give Intel's competitors an unearned advantage by informing them of Intel's compensation strategies, compensation levels, and other related information. *Id.*

6. Because the information redacted in the above-referenced documents cannot be disclosed without causing particularized harm to Intel, it should be protected from public disclosure.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.

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4 Executed this 10th day of January, 2014 at Los Angeles, California.

5 DATED: January 10, 2014

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8 */s/ Gregory M. Sergi*

9 Gregory M. Sergi

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